IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2928 OF 2004

Sambhaji Pandurang Pawar ..Petitioner
Vs.
The State of Maharashtra & Ors. ..Respondents

Mr.Milind Vasudeo with Mr. M.R. Phal for Petitioner
Mr.Niranjan Pandit, A.G.P. for Respondent No.1

CORAM: F.I. REBELLO &
S.P. KUKDAY, JJ.
DATE: 28TH APRIL, 2005.

P.C.

. Petitioner was one of the applicants for a plot of land for construction of houses. Petitioner was the Chief Promoter of Raj Mangal Cooperatieve Housing Society, Malvani. On behalf of the Respondent State Smt.Charushila Chandrakant Tambekar, Under Secretary has filed an affidavit. Property bearing Survey No.263 from the averments it appears was subdivided. We are concerned with Plot A and B. Plot baring No.6A (Part) in terms of para 10 of the affidavit, it has been allotted to MHADA for the rehabilitation of eligible hutment dwellers of SGNP by memorandum dated 12th September, 2002. Apart of the said land, it also appears has been given to Asmita Jyoti Co-operative Housing Society some time in the year 1995. In so far as plot No.6(B) is concerned a part of the land has been granted to Shakti S.R.A. Co-operative Housing

Society for development under the SRA scheme. The Collector has also given permission to transfer the land of plot No.6(B) to the B.M.C. for the purpose of making approach road to the lands which were transferred to MHADA. The affiant in the said affidavit discloses that there is no land available in survey No.263 plot No.6(A) or 6(B) as the same already been allotted to MHADA for rehabilitation of hutment dwellers. It is in these circumstances that the Petitioner's request for grant of land was rejected by the Government by letter dated 29th July 2004.

. Allotment of land could have been considered only in the event land was available. The grievance of the Petitioner is that Asmita Jyoti Cooperative Housing Society has been allotted the land. That was as far as back in 1995 and in plot identified as CTS No.2 in survey No.263. The Petitioner's earlier application was in respect of survey No.263, CTS No.1601. Merely because Asmita Jyoti Co-operative Housing Society was granted land would not create right infavour of the Petitioner for allotment of land. That could have been considered if land was available as applied for by the society and some other who had applied lateron had been allotted land.

. In the instant case substantial part of the land has been allotted for rehabilitation of persons either covered by slum development scheme or displaced persons . In the light of that we do not find that the order of Government rejecting the application is arbitrary or discloses non application of mind. No interference therefore, is called for. Hence Petition is disposed of.

(F.I.REBELLO,J.)

(S.P. KUKDAY,J.)